

EXHIBIT 1

INTRODUCTION

Respondent Frank Aiello was a member of the Pittsburg City Council from January 1998 through December 2002. As a member of the city council, Respondent was required by the Political Reform Act (the “Act”)¹ to disclose all of his economic interests on periodic statements of economic interests, and was prohibited from accepting any gift whose value exceeded the annual gift limit.

In this matter, Respondent failed to disclose the receipt of four gifts on four separate statements of economic interests from Albert Seeno, Jr., and impermissibly accepted two gifts from Mr. Seeno that exceeded the annual gift limit. This matter arose out of an investigation conducted by the Contra Costa County District Attorney’s Office.

For the purposes of this stipulation, Respondent’s violations of the Act are stated as follows:

- COUNT 1: As a member of the Pittsburg City Council, Respondent Frank Aiello failed to disclose Albert Seeno, Jr. as a source of a gift in the form of lodging at the Peppermill Hotel and Casino in Reno, Nevada, on his 1998 annual statement of economic interests, filed on or about March 8, 1999, in violation of section 87207, subdivision (a).
- COUNT 2: As a member of the Pittsburg City Council, Respondent Frank Aiello failed to disclose Albert Seeno, Jr. as a source of gift in the form of lodging at the Peppermill Hotel and Casino in Reno, Nevada, on his 1999 annual statement of economic interests, filed on or about March 8, 2000, in violation of section 87207, subdivision (a).
- COUNT 3: On or about January 14, 2001, as a member of the Pittsburg City Council, Respondent Frank Aiello accepted a gift in excess of the annual gift limit of \$320, in the form of a luxury box ticket to the Oakland Raiders AFC Championship Game from Albert Seeno, Jr., in violation of section 89503, subdivision (a).
- COUNT 4: As a member of the Pittsburg City Council, Respondent Frank Aiello failed to disclose Albert Seeno, Jr. as a source of a gift in the form of a ticket to the Oakland Raiders AFC Championship Game, on his 2001 annual statement of economic interests, filed on or about February 4, 2002, in violation of section 87207, subdivision (a).
- COUNT 5: On or about May 2, 2002, as a member of the Pittsburg City Council,

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Respondent Frank Aiello accepted a gift in excess of the annual gift limit of \$320, in the form of a flight on the private jet of Albert Seeno, Jr., in violation of section 89503, subdivision (a).

COUNT 6: As a candidate for the Pittsburgh City Council in the November 5, 2002 general election, Respondent Frank Aiello failed to disclose Albert Seeno, Jr. as a source of a gift in the form of a flight on a private jet, on his 2002 candidate statement of economic interests, filed on or about August 8, 2002, in violation of section 87207, subdivision (a).

SUMMARY OF THE LAW

Duty to Disclose Economic Interests

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87200 specifies the disclosure requirements for city council candidates and members of city councils. Section 87201 requires a candidate for city council to file a statement of economic interests with his or her declaration of candidacy. Under section 87202, subdivision (a), a newly elected city council member must file a statement of economic interests within 30 days of assuming office. Under section 87203, a city council member must file annual statements of economic interests for each year that he or she holds office. The deadline for filing an annual statement of economic interests is April 1 each year (or the next business day thereafter if April 1 falls on a Saturday, Sunday, or official holiday). (Regulations 18116 and 18723, subd. (b).) Under section 87204, a city council member whose term has ended must file a statement of economic interests within 30 days of leaving office.

On a statement of economic interests, city council members and city council candidates must disclose their investments, interests in real property, and income held or received during the period covered by the statement. (Sections 87201, 87202, subd. (a), 87203 and 87204.) The term “income” includes gifts. (Section 82030, subd. (a).) When income is required to be reported on a statement of economic interests, section 87207, subdivision (a)(1) provides that the statement must contain the name, address, and business activity of each source of income aggregating \$500 or more, and each source of a gift or gifts aggregating \$50 or more.

Prohibition Against Accepting Excessive Gifts

Section 89503, subdivision (a) prohibits city council members from accepting a gift from any single source in any calendar year with a total fair market value of more than \$250. The gift limit in section 89503 adjusts biennially to reflect changes in the Consumer Price Index. (Section 89503, subd. (f).) The annual gift limit for January 1, 2001 through December 31, 2002 was \$320. (See Regulation 18940.2.)

Section 82028 defines a “gift” as “any payment that confers a personal benefit on the

recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.”

Regulation 18944, subdivision (a), provides that gifts given directly to members of an official’s immediate family are gifts to the official unless used or disposed of by the official.

SUMMARY OF THE FACTS

Respondent Frank Aiello was a member of the Pittsburgh City Council from January 1998 through December 2002, and served for one year as the mayor of Pittsburgh. During the time that he held office, Respondent timely filed his 1998, 1999, 2000, and 2001 annual statements of economic interests. As an incumbent candidate for the Pittsburgh City Council in the November 2002 election, Respondent timely filed a 2002 candidate statement of economic interests, for the reporting period January 1 through August 8, 2002.

COUNTS 1 and 2

Failure to Disclose Source of Gift

In 1998, and again in 1999, Respondent took his family on a trip to Reno, Nevada, where they stayed at the Peppermill Hotel and Casino. Before each trip, Respondent contacted Albert Seeno, Jr., a co-owner of the Peppermill and a prominent developer in Pittsburgh, to inform him that Respondent and his family would be staying at the Peppermill. On each occasion while in Reno, Respondent and his family stayed in two rooms at the Peppermill free of charge, and received complimentary beverages. According to complimentary expense reports maintained by the Peppermill, the fair market value of the lodging and related gifts received on each occasion was approximately \$200.

As a city councilmember, Respondent had a duty to disclose the receipt of any gift worth \$50 or more on a statement of economic interests for the reporting period in which the gift was received. However, Respondent did not disclose Mr. Seeno as a source of a gift on his 1998 annual statement of economic interests, or as a source of a gift on his 1999 annual statement of economic interests.

By failing to disclose Mr. Seeno as a source of a gift on two separate statements of economic interests, Respondent committed two violations of section 87207, subdivision (b).

COUNTS 3 and 4

Failure to Abide by Gift Limit and to Disclose Source of Gift

As a city council member, Respondent was prohibited from accepting any gift that exceeded \$320 per year in the calendar year 2001. However, in January 2001, Respondent Frank Aiello accepted a ticket from Mr. Seeno to the AFC Championship Game between the Oakland Raiders and the Baltimore Ravens. This game took place on January 14, 2001 at the Oakland Coliseum. The ticket provided access to a seat in a luxury suite. Respondent attended the game with his son, who had also accepted a ticket from Mr. Seeno. According to the ticket office at the Oakland Coliseum, the cost of the luxury suite, which typically seats 18 people, was \$7,000.

Thus, the fair market value of the ticket to Respondent was approximately \$389 (the cost of the luxury suite divided by the number of seats). By accepting a gift that was in excess of the \$320 annual gift limit, Respondent violated section 89503.

As a city councilmember, Respondent had a duty to disclose the receipt of any gift worth \$50 or more on a statement of economic interests for the reporting period in which the gift was received. However, Respondent did not disclose the gift of the luxury box ticket on his 2001 annual statement of economic interests. By failing to disclose the receipt of the luxury box ticket on his 2001 annual statement of economic interests, Respondent violated section 87207, subdivision (b).

COUNTS 5 and 6

Failure to Abide by Gift Limit and Disclose Source of Gift

As a city council member, Respondent was prohibited from accepting any gift that exceeded \$320 per year in the calendar year 2002. However, in May 2002, Respondent flew with Mr. Seeno on his private jet from Concord, California to Reno, Nevada. According to estimates obtained from Enforcement Division staff, the cost to charter a private plane for the same flight would have ranged from \$1,500 to \$2,300. Thus, the fair market value of the gift to Respondent was at least \$750 (the charter rate divided by the number of passengers).² By accepting a gift in excess of the \$320 annual gift limit, Respondent violated section 89503.

As a city councilmember, Respondent had a duty to disclose the receipt of any gift worth \$50 or more on a statement of economic interests for the reporting period in which the gift was received. However, Respondent did not disclose the gift of the flight on the private jet on his 2002 candidate statement of economic interests, for the reporting period January 1 through August 8, 2002. By failing to disclose the receipt of the flight of the private jet on his 2002 candidate statement of economic interests, Respondent violated section 87207, subdivision (b).

CONCLUSION

This matter consists of 6 counts, which carry a maximum administrative penalty of Two Thousand Dollars (\$2,000) per count for Counts 1 and 2, and Five Thousand Dollars (\$5,000) per count for Counts 3 through 6, for a total administrative penalty of Twenty-four Thousand Dollars (\$24,000).³

Regarding the four disclosure violations, the failure of an official to disclose an economic interest is a serious violation of the Act, as it denies the public of any information regarding the official's financial dealings. Historically, the typical penalty for not disclosing an economic interest on a statement of economic interests has ranged from \$1,500 to \$2,000, depending on the circumstances of the violation. In this case, Respondent's omissions were part of an ongoing pattern of non-compliance with the reporting obligations of the Act. Therefore, imposition of the

² In the Matter of Peter Stone, 3 FPPC Ops. 52.

³ On January 1, 2001, the maximum administrative penalty amount increased from Two Thousand Dollars (\$2,000) to Five Thousand Dollars (\$5,000) for violations occurring after that date.

maximum penalty of \$2,000 per count is appropriate for Counts 1 and 2, and imposition of a penalty of \$3,000 is appropriate for Counts 4 and 6.

Regarding Counts 3 and 5, the conduct of accepting a gift over the legal gift limit is one of the more serious violations of the Act, and typically calls for the imposition of the maximum penalty. As such, imposition of the maximum penalty of \$5,000 for Counts 3 and 5 is appropriate.

Accordingly, the facts of this case justify imposition of a total administrative penalty of Twenty Thousand Dollars (\$20,000).